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INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$83,000	\$598,900	\$681,900	\$170,475

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on August 21, 2007 in Memphis, Tennessee. In attendance at the hearing were Marino Hardy, the appellant, and Shelby County Property Assessor's representative Elizabeth Triplett.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 9412 Forest Station Cove in Collierville, Tennessee.

The taxpayer contended that subject property should be valued at \$95.89 per square foot or \$604,094. In support of this position, seven (7) comparable sales were introduced into evidence. The taxpayer maintained that subject property should be valued at the average sale price of \$95.89 per square foot. The taxpayer also asserted that the 2005 countywide reappraisal caused the appraisal of subject property to increase excessively.¹

The assessor contended that subject property should remain valued at \$681,900. In support of this position, a spreadsheet summarizing three comparable sales was introduced into evidence. Ms. Triplett argued that the comparables support the current appraisal of subject property after adjustments. Ms. Triplett also introduced a summary of comparable sales obtained from Chandler Reports.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$681,900 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization

¹ For whatever reason, the disputed appraisal was not appealed for tax year 2005.

Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2006 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but *relevant differences should be explained and accounted for by reasonable adjustments*. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

[Emphasis supplied]

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The administrative judge finds that when deriving an estimate of value from comparative sales data, one authoritative text cautions that:

In selecting the single value estimate, the assessor must never average the results. Rather, the process requires the assessor to review the adjustments made and place the greatest reliance on the most comparable property. This comparable is the one that requires the fewest adjustments. [Emphasis supplied.]

International Association of Assessing Officers, *Property Assessment Valuation* (2nd ed. 1996), pp. 123-24.

The administrative judge finds that the taxpayer's comparables sold for anywhere from \$87.63 to \$110.63 and vary from one another in many significant aspects. The administrative judge finds Mr. Hardy testified that the home located at 9500 Plantation Lake Road was most similar except for having a pool. That home sold for \$110.63 per square foot whereas subject property is presently appraised at only \$108 per square foot.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$83,000	\$598,900	\$681,900	\$170,475

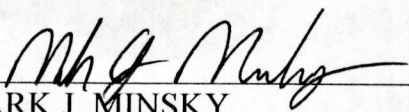
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 4th day of September, 2007.


 MARK J. MINSKY
 ADMINISTRATIVE JUDGE
 TENNESSEE DEPARTMENT OF STATE
 ADMINISTRATIVE PROCEDURES DIVISION

c: Marino C. & Carolyn C. Hardy
 Tameaka Stanton-Riley, Appeals Manager